

FILED

JAN 13 2003

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TALITHA FALKENBURG, et al.,

Plaintiff,

No. CIV-S-01-1478 DFL GGH

vs.

COUNTY OF YOLO, et al.,

Defendants.

ORDER

The amended motion of defendant Asa F. Hambly M.D. for protective order to limit the number of depositions, filed 12/12/02, and plaintiff's motion to take more than 10 depositions, filed 12/20/02, were heard on January 9, 2003. Present in court were Bruce Kilday and Jerome Varanini. Appearing telephonically were Douglas Johnson, Neville Johnson, and Steve Schlens. The motions were granted in part and denied in part as hereafter set forth.

Plaintiffs, with the agreement of the other parties, have already taken approximately 20 depositions, exceeding the presumptive ten deposition limit of the federal rules. Plaintiffs now seek to take additional depositions. Permitting depositions in excess of those permitted by Fed. R. Civ. P. 30(a)(2)(A), without the agreement of the other parties, is within the discretion of the court. The standards for permitting such depositions is that set forth in Fed. R. Civ. P. 26 (b)(2), which provides, in pertinent part:

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The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

See Barrow v. Greenville Independent School Dist., 202 F.R.D. 480 (N.D.Tex.2001).

At hearing, applying the above standards, the court ruled that plaintiffs may take the following additional depositions: Taylor Fithian, M.D.,¹ John Zil, M.D., Sheriff E.G. Prieto, Julia Brosnahan, Mike Smith, Yvonne Maxfield, Barbara Cotten, Dana Feryance, Eleanor Schneider. The parties agreed that the additional depositions to be retaken pursuant to previous court order are those of nurse Snow, and officers Day, Sykosky, Banuelos, Cardenas, and Miller. These retaken depositions shall not exceed one hour each. As to the remaining depositions requested by plaintiffs, the court, as reflected in the record, found that the burden and expense of each of the remaining proposed depositions outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

Retained expert depositions also remain to be taken by the parties. The above limits do not apply to retained expert depositions.

DATED: January 10, 2003.


GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

GGH:055
falkenburg1-9oah.wpd

¹ However, the scope of the Fithian deposition is to be determined at a later hearing.

United States District Court
for the
Eastern District of California
January 13, 2003

* * CERTIFICATE OF SERVICE * *

2:01-cv-01478

Falkenburg

v.

County of Yolo

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on January 13, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

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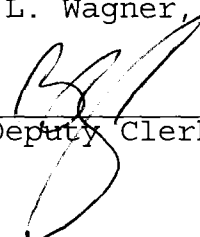
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